

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

T-MOBILE USA, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION and UNITED STATES OF
AMERICA,

Respondents.

Case No. 24-1225

NON-BINDING STATEMENT OF ISSUES

Pursuant to this Court's Order of June 27, 2024, Petitioner T-Mobile USA, Inc. files the following non-binding statement of the issues presented for review:

1. Whether the Commission's forfeiture order exceeds the Commission's statutory authority because the location information at issue is not customer proprietary network information as defined by 47 U.S.C. § 222(h)(1)(A).
2. Whether the Commission failed to provide fair notice that it interpreted 47 U.S.C. § 222(h)(1)(A) to include the location information at issue.
3. Whether the Commission acted arbitrarily and capriciously in concluding that T-Mobile failed to take reasonable measures to safeguard the location information at issue and was thus liable under 47 U.S.C. § 222 and 47 C.F.R. § 64.2010.

4. Whether the Commission failed to provide fair notice that it interpreted 47 U.S.C. § 222 and 47 C.F.R. § 64.2010 to require T-Mobile to terminate its entire location-based-services program within 30 days of a news report about a single provider's alleged misappropriation of data.

5. Whether the \$80,080,000 penalty imposed by the Commission unlawfully exceeds the \$2,048,915 inflation-adjusted maximum for a continuing violation of 47 U.S.C. § 222, is arbitrarily and capriciously excessive and disproportionate, and violates constitutional limits on punitive fines.

6. Whether the Commission's forfeiture process in this case violates the Seventh Amendment, the Due Process Clause, Article III, separation-of-powers principles, and the non-delegation doctrine.

Petitioner reserves the right to modify the list of issues presented, and to address these and other issues in more detail in future pleadings.

Dated: July 29, 2024

Respectfully submitted,

/s/ Helgi C. Walker

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of July, 2024, the foregoing was electronically filed with the United States Court of Appeals for the District of Columbia Circuit using the CM/ECF system, which will send a notice of filing to all participants in the case who are register CM/ECF users.

/s/ Helgi C. Walker

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